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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------|------------------------|
| 10/674,152 | 09/29/2003 | Ning Lei | 13436.268 (Lei 1-1) | 1904 |
| 24283 | 7590 | 10/03/2007 | | |
| PATTON BOGGS LLP 1801 CALIFORNIA STREET SUITE 4900 DENVER, CO 80202 | | | EXAMINER WONG, XAVIER S | |
| | | | ART UNIT 2616 | PAPER NUMBER |
| | | | MAIL DATE 10/03/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/674,152

Applicant(s)

LEI ET AL.

Examiner

Xavier Szewai Wong

Art Unit

2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11th September 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN ~~OW~~ MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) ~~21~~ month in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-4
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: please see attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s): _____.
13. ☐ Other: _____.

Response to Arguments

Applicant's arguments filed 11th September 2007 have been fully considered but they are not persuasive.

Applicants argue that **Dang et al (US 7,035,209 B2)** do not teach the forcing of terminal equipment into a predetermined active data call connection state. The examiner respectfully disagrees with the argument. **Dang et al** *may not have explicitly* mentioned preventing a data link from going down by forcing the terminal equipment into a predetermined active data call connection state as the applicants state. *However*, the claim language/limitation used as recited in claim 1 that "...maintain terminal equipment into a predetermined active data call connection state and to prevent interruption of said active data link between said ISDN Access Node and said terminal equipment," which *reads on* and is *being interpreted as* maintaining the terminal equipment active by preventing an interruption in the active data link or in order to maintain terminal equipment activity, active data link cannot be interrupted and therefore, the data link requires failsafe means to remain active.

Dang et al clearly teaches the *concept* of a control network automatic creation (CNAC) process for automatically maintaining, and therefore maintain activity, control of the network (such as between nodes wherein one is interpreted as a terminal equipment) despite *failures*, by switching between "sub-links (14 & 16)" within one active data link set (fig. 1 link set 14&16) in column 8 lines 65-67 through column 9 lines 1-3 (further citations: col. 4 ln. 5-12).

In addition, **Dang et al** clearly disclose the link set (e.g. 14 or 16) is of data and control link (column 3 lines 46-47).

Therefore, in view of the above clarifications, the final rejection is respectfully maintained by the examiner.

Xavier Wong
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18 September 2007

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